

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION**

<b>CALVIN TIMBERLAKE and</b>	)	
<b>KAREN TIMBERLAKE,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	<b>CASE NO. 6-08-CV-4</b>
<b>vs.</b>	)	
	)	
<b>SYNTHES SPINE COMPANY, L.P.,</b>	)	
<b>et al.</b>	)	
	)	
<b>Defendants</b>		

**STIPULATION OF AGREEMENT REGARDING  
PLAINTIFFS' SUBPOENAS FOR RECORDS**

To the Honorable Judge of Said Court, the parties stipulate as follows:

1. Plaintiffs filed their First Amended Original Complaint on February 21, 2008;
2. Defendant Synthes Spine Company, L.P. ("Synthes") filed its Answer to Plaintiffs' First Amended Original Complaint and Motion to Dismiss or in the Alternative to Transfer Venue on March 13, 2008;
3. Defendant Spine Solutions, Inc. ("Spine Solutions") filed its Answer to Plaintiffs' First Amended Original Complaint and Motion to Transfer Venue on March 31, 2008;
4. Upon information and belief, Defendants Viscogliosi Brothers, L.L.C., Marc R. Viscogliosi, John J. Viscogliosi, and Anthony J. Viscogliosi have been served with Plaintiffs' Amended Complaint, but have not yet filed responsive pleadings;
5. Plaintiffs, in violation of FED.R.CIV.P. 26(d), prematurely served ten non-party subpoenas for records on various physicians and entities in the Northern District of California, the Southern District of California, the Southern District of New York, the Eastern District of Pennsylvania, the Western District of Tennessee and the Eastern District of Texas;

6. Defendants Synthes and Spine Solutions filed Motions for Protective Order in this Court requesting that the Court preclude Plaintiffs' non-party subpoenas;
7. Defendant Synthes also filed Motions to Quash or, in the Alternative, Stay Plaintiffs' Non-Party Subpoenas in the respective districts for all ten subpoenas issued by Plaintiffs;
8. Plaintiffs and Defendants Synthes and Spine Solutions agree to stay any and all offensive and defensive actions related to said subpoenas until ten (10) days after the Court issues a ruling on the pending Motions to Transfer filed by Synthes and Spine Solutions;
9. Plaintiffs shall be required to respond with regard to all pending Motions for Protective Order and Motions to Quash on or before ten (10) days from the date the Court issues a ruling on the pending Motions to Transfer;
10. Plaintiffs and Defendants Synthes and Spine Solutions agree that no hearings will be scheduled, nor will the parties proceed in any of the courts where the subpoenas are pending prior to a ruling on Defendants Synthes' and Spine Solutions' Motions for Protective Order by this Court or by the Southern District of Texas, Houston Division, should this case be transferred. Defendants Synthes and Spine Solutions in no way waive their right to pursue their Motions to Quash and objections properly filed in the courts where the subpoenas are pending;
11. Plaintiffs agree to withdraw any non-party subpoenas issued, but not yet served and the effected non-parties should not be required to respond or object to Plaintiffs' subpoenas during the agreed-upon time period in which this issue is stayed; and,
12. Plaintiffs' and Defendants Synthes' and Spine Solutions' agreement to stay the issue of the non-party subpoenas in no way affects the non-parties' right to object or otherwise respond to the subpoenas, except for as expressly provided above.

Agreed and accepted this 18th day of April, 2008.

Respectfully submitted,

**GREENBERG TRAURIG, L.L.P.**

/s/ Lori G. Cohen  
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